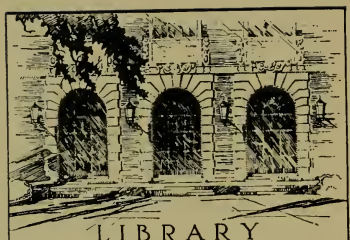

LIBRARY
OF THE
UNIVERSITY
OF ILLINOIS

A NARRATIVE OF THE CASE OF MR. BRADLAUGH.

In 1868 and twice in 1874, Mr. Bradlaugh was a candidate for Northampton, but failed to obtain anything like the united support of the Liberal Party.

In March, 1880, he was again a candidate, receiving the countenance of Mr. Adam, then the official representative of the present Government, who sent a telegram in favour of his and Mr. Labouchere's candidature, requesting the Liberals to split their votes. A telegram was also received from Mr. S. Morley, M.P., who has much influence with the Dissenters, urging united effort in all sections of the Liberal party, and the sinking of minor and personal questions in order to prevent the return of a Conservative.

Favoured by such assistance, Mr. Bradlaugh was returned by a majority of over 700 votes.

On Monday the 3rd of May, Mr. Bradlaugh came to the table of the House and claimed to be allowed to affirm, as a person for the time being by law permitted to make a solemn affirmation instead of taking an oath; and on being asked by the Clerk upon what grounds he claimed to make an affirmation, he said that he did so by virtue of the Evidence Amendment Acts, 1869 and 1870. The Speaker thereupon informed Mr. Bradlaugh, "that if he desired to address the House in explanation of his claim he might be permitted to do so." In accordance with the Speaker's intimation Mr. Bradlaugh stated shortly that he relied on the Evidence Further Amendment Act, 1869, and the Evidence Amendment Act, 1870, adding, "I have repeatedly for nine

years past, made an affirmation in the highest courts of jurisdiction in this realm; I am ready to make such a declaration or affirmation." The Speaker then acquainted the House that Mr. Bradlaugh having made such claim, he did not consider himself justified in determining it, and having grave doubts on the construction of the Acts above stated, he desired to refer the matter to the judgment of the House.

A Select Committee was therefore appointed, on the motion of Lord F. Cavendish (as the principal representative of the Government then present), to consider and report their opinion whether persons entitled, under the provisions of the Evidence Amendment Acts, 1869 and 1870, to make a solemn declaration instead of an oath in courts of justice, might be admitted to make an affirmation or declaration instead of an oath, in pursuance of the Acts 29 and 30 Vict., c. 19; and 31 and 32 Vict., c. 72.

On the 20th of May the Committee reported that, in their opinion, persons so entitled could not be admitted to make such affirmation or declaration instead of an oath in the House of Commons.

This report was adopted by the Committee only by the casting vote of its Chairman (Mr. Walpole). The following amongst others voted in favour of the opinion that Mr. Bradlaugh was entitled to affirm:—

Mr. Bright.
Sir H. James, Q.C.
Sir F. Herschell, Q.C.
Mr. Watkin Williams, Q.C.
Mr. Serjeant Simon.

On the same day (May 20) Mr. Bradlaugh addressed to the newspapers a letter, which contained the following passages:

"The oath, although to me including words of idle and meaningless character, was, and is, regarded by a large number of my fellow countrymen as an appeal to Deity to take cognizance of their swearing. It would have been an act of hypocrisy to voluntarily take this form if any other had been open to me, or to take it without protest, as though it meant in my mouth any such appeal.

"My duty to my constituents is to fulfil the mandate they have

The Rare Book & UIUC Library

given me, and if to do this I have to submit to a form less solemn to me than the affirmation I would have reverently made, so much the worse for those who force me to repeat words which I have scores of times declared are to me sounds conveying no clear and definite meaning. I am sorry for the earnest believers who see words sacred to them used as a meaningless addenda to a promise, but I cannot permit their less sincere co-religionists to use an idle form in order to prevent me from doing my duty to those who have chosen me to speak for them in Parliament. I shall, taking the oath, regard myself as bound, not by the letter of its words, but by the spirit which the affirmation would have conveyed had I been permitted to use it."

The proceedings of the next day (May 21st) are thus described in the Journals of the House of Commons:—

"Mr. Bradlaugh, returned as one of the members for the borough of Northampton, came to the table to take and subscribe the oath, *and the clerk was proceeding to administer the same to him*, when Sir Henry Drummond Wolff, member for Portsmouth, rose to take objection thereto, and to submit a motion to the House."

He moved—

"That, in the opinion of this House, Mr. Bradlaugh, member for Northampton, ought not to be allowed to take the oath which he now requires to be administered to him, in consequence of his having previously claimed, at the table of the House, to make an affirmation or declaration instead of the oath prescribed by law, founding his claims upon the terms of the Act 29 and 30 Vict. c. 19, and the Evidence Amendment Acts of 1869 and 1870, and on the ground that under the provisions of those Acts the presiding Judge, at a trial, has been satisfied that the taking of an oath would have no binding effect on his conscience."

To this an amendment was moved by appointing a fresh Committee to consider the right of the House to refuse to allow the oath to be administered.

This Committee reported on the 16th of June, 1880, and amongst other things said:—

"As to the right and jurisdiction of the House to refuse to allow the form of the oath prescribed to be taken by duly elected members to be taken by them, your Committee are of opinion that there is and must be an inherent power in the House to require that the law by which the proceedings of the House and of its members, in reference to the taking of the Parliamentary oath is regulated, be duly observed. But this does not imply that there is any power in the House to interrogate any member desirous to take the Oath of Allegiance upon any subject in connection with his religious belief, or as to the extent the oath will bind his conscience; or that there is any power in the House to hear any evidence in relation to such matters.

"And your Committee are of opinion that by and in making the claim to affirm, Mr. Bradlaugh voluntarily brought to the notice of the House that on several occasions he had been permitted in a court of justice to affirm, under the Evidence Amendment Acts, 1869 and 1870, in order to enable him to do which a Judge of the Court must have been satisfied that an oath was not binding upon Mr. Bradlaugh's conscience; and, as he stated, he had acted upon such decisions by repeatedly making the affirmation in courts of justice; and, as above stated, nothing has appeared before your Committee to cause them to think Mr. Bradlaugh dissented from the correctness of such decisions, your Committee are of opinion that under the circumstances, the compliance by Mr. Bradlaugh with the form used when an oath is taken would not be the taking of an oath within the true meaning of the Statutes 29 Vict. c. 19, and 31 & 32 Vict. c. 72; and therefore, that the House can, and in the opinion of your Committee ought, to prevent Mr. Bradlaugh going through this form."

On the question whether the House ought in the exercise of its power to prevent him from taking the oath, eleven of the Committee voted in favour of, and ten against it. Amongst the latter were:—

Mr. Bright.
Mr. Childers.
Sir H. James.
Sir F. Herschell.

The report, however, contained also an addendum, suggested by Mr. Serjeant Simon, to the effect that "as the state of the law upon the subject cannot be regarded as satisfactorily determined," Mr. Bradlaugh should be allowed to affirm at his peril, and so have an opportunity of testing his legal right to do so in the High Court of Justice.

The Committee accordingly recommended that should Mr. Bradlaugh again seek to make and subscribe the affirmation he be not prevented from so doing.

This was carried by 12 votes to 9, Mr. Bright, Mr. Childers, Sir H. James, and Sir F. Herschell voting in the majority.

Accordingly Mr. Labouchere moved, on June 21, 1880, that Mr. Bradlaugh should be allowed to affirm, to which Sir Hardinge Giffard moved, as an amendment:—

"That having regard to the Reports and Proceedings of two Select Committees appointed by this House, Mr. Bradlaugh be not permitted to take the Oath or make the Affirmation mentioned in the Statute 29 Vict. c. 19, and 31 & 32 Vict. c. 72."

After two nights' debate the amendment was carried by a majority of 275 to 230, the Government supporting Mr. Labouchere and voting in the minority.

On the 23rd of June Mr. Bradlaugh came again to the table and claimed to take the oath, when the Speaker communicated to him the above resolution. Mr. Bradlaugh was heard in support of his claim, and Mr. Labouchere then moved to rescind the resolution, but withdrew his motion at the suggestion of Mr. Gladstone, who said that it would involve "some loss of dignity."

Mr. Bradlaugh was then ordered to withdraw, but having refused to do so, the following scene occurred:—

The SPEAKER.—"I have now to appeal to the House to give authority to the Chair to compel the execution of its orders. (Cheers.) I have no authority without the order of the House to enforce, and I must therefore appeal to the House to give me instructions for that purpose."—(*Times'* Report.)

Again there was a pause, and again there were cries of "Gladstone," but the right hon. gentleman, who was reading a letter, made no sign, and Sir S. Northcote rose and moved that Mr. Bradlaugh should withdraw, and subsequently that he be taken into custody for disobeying the order of the Chair. Mr. Bradlaugh was accordingly taken into custody; but on the following day Sir S. Northcote (the Government refusing to give any advice) moved for and obtained his discharge from custody.

On the following Saturday the Cabinet considered the subject, and in consequence, on July 1st, 1881, Mr. Gladstone moved to postpone all orders of the day in order to bring on his resolution rescinding the previous vote of the House so far as related to affirmation, which was as follows:—

"That every person returned as a member of this House who may claim to be a person for the time being by law permitted to make a solemn affirmation or declaration instead of taking an oath shall henceforth (notwithstanding so much of the resolution adopted by this House on the 22nd day of June last as relates to affirmation) be permitted without question to make and subscribe a solemn affirmation in the form prescribed by 'the Parliamentary Oaths Act, 1866,' as altered by 'the Promissory Oaths Act, 1868,' subject to any liability by Statute."

In opposition to this Sir Stafford Northcote moved:

"That this House cannot adopt a resolution which virtually rescinds the resolution passed by it on the 22nd day of June last."

After two nights' debate Sir S. Northcote's amendment was rejected by 303 votes to 249.

Mr. A. M. Sullivan then moved that the new resolution should apply only to future members of the House, but was defeated by 274 to 236, the Government all voting against him.

Mr. Gladstone's resolution was then made a standing order of the House; and on July 2nd Mr. Bradlaugh, "claiming to be a person for the time being by law permitted to make a solemn affirmation or declaration instead of taking an oath," made an affirmation at the table.

On the same day an action was commenced at the suit of Mr. H. L. Clarke against Mr. Bradlaugh to recover penalties in consequence of his "having sat in the House of Commons during a debate after the Speaker had been chosen," without having made and subscribed the oath required by law.

On March 31, 1881, the judgment of the Court of Appeal was delivered by Lord Justices Bramwell, Baggallay, and Lush, approving the judgment of Mr. Justice Mathew against Mr. Bradlaugh. In the course of his judgment Lord Justice Bramwell said:—

"I think it is about as plain a case as ever came before a court of justice; I think it is a perfectly plain case that the defendant was not entitled to affirm or to declare by virtue of the Act for the further Amendment of the Law of Evidence combined with the Parliamentary Oaths Act."

Accordingly, on April 1, 1881, a new writ was issued for the borough of Northampton, on the motion of Mr. Labouchere, and on April 9th Mr. Bradlaugh was returned by a majority of 132 over his opponent, Mr. Corbett, the number of votes recorded for him shewing a decrease of more than 500.

On April 26, 1881, on Mr. Bradlaugh again presenting himself at the table and claiming to take the oath, Sir Stafford Northcote rose to object, and on cries of "Order" being raised, the Speaker ruled that the House ought to have

an "opportunity of expressing its judgment upon the new conditions under which the oath is now proposed to be taken."

Sir S. Northcote then moved that Mr. Bradlaugh be not allowed "to go through the form of taking the oath prescribed by the statute."

This motion was opposed by the Government, Mr. Bright, Mr. Gladstone, and Sir H. James speaking against it, but was carried on a division by 208 to 175. Mr. Bradlaugh thereupon again advanced to the table, and refused to withdraw.

"There were loud calls for Mr. Gladstone, who did not, however, respond to them."—*(Times' Report.)*

Sir S. Northcote then said:—

"Sir, the Prime Minister having abdicated the proper functions of his position, and having called upon those who voted in the majority on a particular question to act in a matter in which, as I consider, the honour of the House is concerned, I will not refuse to accept that responsibility." He then moved that Mr. Bradlaugh should withdraw, which was carried.

Mr Bradlaugh, being then removed by the Sergeant-at-Arms, immediately returned to the Bar, and the Speaker rose and said that he must only throw himself upon the House in the circumstances in which they were placed. (Loud cries of "Gladstone.")

The House shortly afterwards adjourned.

On the next day (April 27) Mr. Bradlaugh again presented himself, but the debate was adjourned on the understanding that the Government would bring in a Bill on the subject.

On May 2, 1881, the orders of the day and the debate on the Irish Land Bill were adjourned, on the motion of Mr. Gladstone, in order to enable the Attorney-General (Sir H. James) to bring in his Bill. After Sir H. James's statement the House adjourned.

On Friday, May 6, the Government proposed to fix a morning sitting on the following Tuesday to continue the debate. This was resisted by Mr. Balfour, and the debate was adjourned until the 9th, on which day the Government renewed the proposal of the morning sitting, and defeated a motion for the adjournment by a majority of 20 only. After this they gave way.

On May 10th Mr. Bradlaugh again presented himself at the table and refused to withdraw, upon which the Speaker again appealed for instructions. Mr. Gladstone showing no signs of rising, Sir S. Northcote rose and moved that the Sergeant-at-Arms should remove Mr. Bradlaugh from the House until he should give an undertaking not to disturb its proceedings. This was carried without a division, and Mr. Bradlaugh was and remains excluded from the House.

June, 1881.

APPENDIX.

It may be useful to append here some particulars of the trial of Charles Bradlaugh and Annie Besant, in June, 1877, for publishing the "Fruits of Philosophy," which are extracted from the full report published by the defendants themselves.

The indictment against them alleged that they "did print, publish, sell, and utter a certain indecent, lewd, filthy, and obscene libel, to wit, a certain indecent, lewd, filthy, bawdy, and obscene book, called 'Fruits of Philosophy,' thereby contaminating, vitiating, and corrupting the morals as well of youth as of other liege subjects of the Queen, and bringing the said liege subjects to a state of wickedness, lewdness, debauchery, and immorality, &c."

The trial took place before Lord Chief Justice Cockburn and a special jury, and resulted in a verdict of guilty against both defendants. The Lord Chief Justice, in passing sentence, said: "We cannot help seeing, in what has been said and done pending this trial, and since the verdict of the jury was pronounced, that the defendants, instead of submitting themselves to the law, have set it at defiance by continuing to circulate this book," and he sentenced them both to be imprisoned for 6 months, to pay a fine of £200, and to find recognisances for good behaviour for two years. On appeal the sentence was reversed by the Court of Appeal on "a purely technical question"—whether the indictment sufficiently set out the words relied upon as constituting the offence—Lord Justice Brett adding that, nevertheless, "the verdict stands untouched," and it must follow that the reiteration of the offence, if it be proved to be an offence, must be met by a greater punishment than that which may have been passed already upon the defendants.